

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:11cv001-FDW**

TERESA DIGSBY, for J.D., a minor,

Plaintiff,

v.

**MICHAEL J. ASTRUE, Commissioner,
United States Social Security Administration**

Defendant.

ORDER

THIS MATTER is before the Court upon Plaintiff's "Application to Proceed in District Court Without Prepaying Fees or Costs." (Doc. No. 2.) Federal law requires that a Plaintiff in a civil action pay a filing fee in the amount of \$350.00, plus service fees and other costs.

On January 3, 2011, Teresa Digsby filed the instant application on behalf of her minor son, J.D., who seeks review of the Commissioner of Social Security's decision to deny his request for Social Security Disability and Supplemental Security benefits.¹ The application contains information about J.D.'s financial status, but not Teresa's.

On January 7, 2011, the Court issued an Order notifying Plaintiff that when ruling on a minor plaintiff's application to proceed *in forma pauperis* pursuant to 28 U.S.C. § 1915(a), the Court may consider the financial resources of whoever has legal responsibility for the care of that minor. (Doc. No. 4 at 2 (citing *White ex rel. Diggs v. Barnhart*, Nos. 102CV556, 102CV557, 2002 WL 1760980, at *2 (M.D.N.C. July 30, 2002) (unpublished), *Zhu v. Countrywide Realty Co.*, 148 F. Supp.2d 1154, 1156 (D. Kan. 2001); *Williams v. Spencer*, 455

¹Plaintiff's Amended Complaint identifies Teresa Digsby as the parent of J.D. (Doc. No. 3), and her signature appears on the affidavit supporting the application (Doc. No. 2).

F. Supp. 205, 208-209 (D.Md. 1978); Bryant v. Whalen, No. 88 C 4834, 1992 WL 198946, *5 (N.D. Ill. Aug.12, 1992)).) The Court gave Plaintiff 30 days to file a financial affidavit from J.D.'s parent(s) or next friend. (Doc. No. 4 at 2.) Plaintiff was notified that failure to file the affidavit would result in dismissal of the application to proceed *in forma pauperis*. Id.

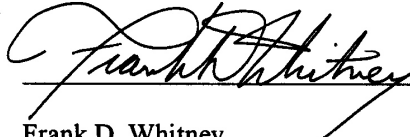
As of the entrance of this Order, Plaintiff has not filed the required financial affidavit. Therefore, the instant application to proceed *in forma pauperis* shall be denied.

NOW, THEREFORE, IT IS HEREBY ORDERED THAT Plaintiff's "Application to Proceed in District Court Without Prepaying Fees or Costs" (Doc. No. 2) is **DENIED**.

IT IS FURTHER ORDERED THAT Plaintiff shall have 14 days from the entrance of this Order to pay the filing fee in this case. Failure to pay the filing fee shall be grounds for dismissing the Complaint (Doc. 1) and Amended Complaint (Doc. 3) without further notice.

IT IS SO ORDERED.

Signed: March 10, 2011



Frank D. Whitney
United States District Judge

